IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1011 of 2002
With
FIRST APPEAL No. 920 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTIBHAI KANAIYALAL & 5 - Appellant(s)
Versus
ORIENT CLUB - Defendant(s)

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Appearance :
MR MIHIR H JOSHI for Appellant(s) : 1 - 6.
MR AC GANDHI for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE

Date : 27/04/2006

ORAL JUDGMENT

The present appeals have been filed by respective appellants challenging the judgment and

decree dated 24.12.2001 passed by the learned City Civil Judge, Ahmedabad in Civil Suit No.7000 of 1987. The said suit was filed by Kantibhai Kanaiyalal against the Orient Club for specific performance of the agreements dated 15.5.1974 and 29.3.1975.

2. Learned City Civil Judge, Ahmedabad by the judgment and decree dated 24.12.2001 partly decreed the suit and directed the Orient Club to construct the swimming pool and name it as prayed for in the plaint.

3. This Court (Coram : Kamal Mehta, J), by order dated 7.10.2002 admitted the present appeals. It is pointed out that at the hearing, the Court suggested the parties to explore the possibilities of settlement looking to the nature of the dispute.

4. Today, at the hearing, the parties have produced the consent terms which is ordered to be taken on record. In that view of the matter, the following order is passed.

5. The original plaintiffs – the appellants of First Appeal No.1011 of 2002 Kantibhai Kanaiyalal and others would not enforce or seek implementation of the judgment and decree dated 24.12.2001 insofar as it directed the Orient Club to construct the swimming pool and the said decree shall stand satisfied.

6. The aforesaid waiver was on the condition that the Orient Club would name its party plot, presently situated at the rear of the club premises as “Kasturben Kanaiyalal Party Plot” and a board to this effect containing the said legend in the metal letters of 15” length each was placed at a prominent place in the close proximity of the said plot so as to be visible from the plot.

7. The respondent in First Appeal No.1011 of 2002 and appellant in First Appeal No.920 of 2002 – The Orient Club to renovate and maintain the existing puja room by undertaking necessary actions and repair including painting of the room, affixing new tiles etc., and to further provide washing and bathing facilities with necessary water connection and running water facilities therein.

8. The Orient Club shall not change the name of the party plot viz. “Kasturben Kanaiyalal Party Plot” and even in the event of the club shifting to new/separate premises, the party plot of the club at such new premises would also bear and carry the same name. In absence due to compelling reasons of such party plot, the main hall of the club to be used for such and similar functions as that in the party plot would bear the said name. If for any reason whatsoever, the club does not have a party plot or

hall for compelling reasons beyond its control, it shall name its sports activity center as “Kasturben Kanaiyalal Sports Center” in consultation with the appellants – Kantibhai Kanaiyalal and others and/or their family members.

9. The consent terms, which are executed by the parties and/or their duly authorized representatives, shall be binding on their respective heirs, assigns, transferees, successors in interest etc.

10. It is submitted that the parties to their satisfaction have implemented the aforesaid terms, photographs bearing out the execution of the terms are annexed and the parties hereby assure and undertake to abide by the consent terms set out in the paragraph 5 of the consent terms.

11. Both these appeals are disposed of in the aforesaid terms.

(Sharad D.Dave,J)

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